

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE	)	CHAPTER 11
DAVID W. BERRY, SR.	)	CASE NO. 09-31231 HJB
	)	
DEBTOR(S)	)	

**MOTION FOR NON-COMPLIANCE OF STIPULATION**

In support of this motion, Ford Motor Credit Company LLC formerly Ford Motor Credit Company represents:

1. Ford Motor Credit Company LLC formerly Ford Motor Credit Company filed an Amended [29] Motion for Relief From Automatic Stay dated August 25, 2009 relative to one (1) 2005 Ford F450, Vehicle Identification Number 1FDXX47P35EB65518 and one (1) 2005 Ford Excursion, Vehicle Identification Number 1FMSU45P75EB817302007, Document I.D. No.34 (hereinafter the "Motion").
2. As to the Motion for Relief from Stay, Ford Motor Credit Company LLC and David W. Berry, Sr. the Debtor in possession entered into a stipulation for Interim Adequate Protection Payments which was approved by the Court on October 14, 2009.
3. The Debtor has failed to make the payments due pursuant to the terms and conditions of the Stipulation as set forth in the Affidavit of Non-Compliance which is annexed hereto and made a part hereof.
4. As a result of the Debtor's default, pursuant to paragraph 12 of the Stipulation (which provides for relief from stay upon filing of affidavit of non-compliance and seven (7) day's notice), the undersigned respectfully requests, on behalf of Ford Motor Credit Company LLC

that Relief from the Automatic Stay shall be granted in accordance with the attached order.

**WHEREFORE**, Ford Motor Credit Company LLC respectfully requests that the Court issue an Order, pursuant to 11 U.S.C. §362(d)(1), granting relief from automatic stay in order to obtain possession and dispose of its collateral and such other relief as the Court deems just and proper.

Dated at Bloomfield, Connecticut on December 4, 2009.

MOVANT

Ford Motor Credit Company LLC formerly Ford  
Motor Credit Company

By /s/ Mitchell J. Levine

Mitchell J. Levine

Law Offices of Nair & Levin, P.C.

707 Bloomfield Avenue

Bloomfield, CT 06002

BBO No. 638576

Telephone No. (860) 242-7585

mlevine@nairlevin.com

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE	)	CHAPTER 11
DAVID W. BERRY, SR.	)	CASE NO. 09-31231 HJB
	)	
DEBTOR(S)	)	

**ORDER GRANTING RELIEF FROM AUTOMATIC STAY OR,  
IN THE ALTERNATIVE, ADEQUATE PROTECTION**

After notice and hearing on Ford Motor Credit Company LLC formerly Ford Motor Credit Company's (hereafter the "Movant") Amended Motion for Relief from Stay or, in the alternative, adequate protection Doc. I.D. No.

**IT IS HEREBY ORDERED** that the Automatic Stay of Section 362(a) of the Bankruptcy Code is modified so that the Movant may exercise its rights if any, under its security agreement with the above Debtor(s) with regard to a 2005 Ford F450, Vehicle Identification Number 1FDXX47P35EB65518 and a 2005 Ford Excursion, Vehicle Identification Number 1FMSU45P75EB81730, in accordance with State and Federal Law.

Dated at Springfield, Massachusetts this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

_____	)	
IN RE	)	CHAPTER 11
DAVID W. BERRY, SR.	)	CASE NO. 09-31231 HJB
	)	
DEBTOR(S)	)	
_____		

**CERTIFICATE OF SERVICE**

The undersigned Ford Motor Credit Company LLC formerly Ford Motor Credit Company (the "Movant") hereby certifies that on December 4, 2009 in accordance with Rules 7004, 7005, and 9014 F.R.Bankr.P., I have served the following upon all parties entitled to notice (see attached Schedule "A") by first class mail postage prepaid or electronically:

(1) a copy of the Amended Motion for Non-Compliance of Stipulation (2) a copy of the proposed order.

Dated: December 4, 2009

THE MOVANT  
Ford Motor Credit Company LLC formerly  
Ford Motor Credit Company

BY/s/Mitchell J. Levine  
Mitchell J. Levine, Esq.  
NAIR & LEVIN, P.C.  
707 Bloomfield Avenue  
Bloomfield, CT 06002  
BBO #638576  
mlevine@nairlevin.com  
Telephone No. (860) 242-7585

**SCHEDULE A**

Debtor(s)' Attorney:

**James P. Ehrhard**  
Ehrhard & Associates, P.C.  
418 Main Street  
4th Floor  
Worcester, MA 01608  
[ehrhards@ehrhardslaw.com](mailto:ehrhards@ehrhardslaw.com)

Debtor(s):

**David W Berry, Sr.**  
106 Coes Hill Road  
Southwick, MA 01077  
(Debtor)

**Berry Construction**

106 Coes Hill Road  
Southwick, MA 01077  
(Co-Buyer)

Office of the U.S. Trustee-Boston:

**Richard King**  
Office of the U. S. Trustee  
446 Main Street  
14th Floor  
Worcester, MA 01608  
[USTPRegion01.WO.ECF@USDOJ.GOV](mailto:USTPRegion01.WO.ECF@USDOJ.GOV)  
(Assistant U.S. Trustee)

**Berkshire Bank**

**Gregory A. Schmidt**  
Doherty Wallace Pillsbury & Murphy  
One Monarch Place  
1414 Main Street  
Springfield, MA 01144  
[gschmidt@dwpm.com](mailto:gschmidt@dwpm.com)

**Caterpillar Financial Services Corporation**

**Richard A. Sheils, Jr**

Bowditch & Dewey  
311 Main Street  
P.O. Box 15156  
Worcester, MA 01608  
[rsheils@bowditch.com](mailto:rsheils@bowditch.com)

**Chase Home Finance, LLC**

**Deirdre M. Keady**

Harmon Law Offices  
P.O. Box 610345  
Newton Highlands, MA 02461-0345  
[mabk@harmonlaw.com](mailto:mabk@harmonlaw.com)

**Cook Builders Supply Co., Inc.**

**Thomas G. Griffin**

Resnic, Beauregard, Waite and Driscoll  
330 Whitney Avenue  
Ste. 400  
Holyoke, MA 01040  
[tgriffin@rbwd.com](mailto:tgriffin@rbwd.com)

**Deutsche Bank National Trust Company, as Trustee for Novastar Mortgage Funding Trust, Series 2006-6**

**Reneau J. Longoria**

Doonan, Graves & Longoria, LLC  
100 Cummings Center  
Suite 225D  
Beverly, MA 01915  
[sl@dgandl.com](mailto:sl@dgandl.com)

**FCC Equipment, LLC**

**Richard A. Sheils, Jr**

Bowditch & Dewey  
311 Main Street  
P.O. Box 15156  
Worcester, MA 01608  
[rsheils@bowditch.com](mailto:rsheils@bowditch.com)

**Ocwen Loan Servicing**

**Richard C. Demerle**

Michienzie & Sawin LLC  
745 Boylston Street  
Boston, MA 02116  
[rd@masatlaw.com](mailto:rd@masatlaw.com)

**United States of America Dept. of Treasury Internal Revenue Service**

**Frank W. Louis**

Special Assistant US Attorney  
Commerce Center One  
333 E. River Dr., Suite 200  
East Hartford, CT 06108-4202  
[Frank.W.Louis@IRSCOUNSEL.TREAS.GOV](mailto:Frank.W.Louis@IRSCOUNSEL.TREAS.GOV)

**American Home Mortgage Servicing, Inc.**

4875 Belfort Rd Suite 130  
Jacksonville, FL 32256  
(Creditor)

**Bank Of America**

**Paul Manning**

Portnoy & Greene, P.C.  
687 Highland Avenue  
Needham, MA 02494  
[pmanning@portnoygreene.com](mailto:pmanning@portnoygreene.com)

**Chase Home Finance, LLC successor by merger to Chase Manhattan Mortgage Corporation**

**Jason Giguere**

Harmon Law Offices, P.C.  
P.O. Box 610345  
Newton Highlands, MA 02461  
[mabk@harmonlaw.com](mailto:mabk@harmonlaw.com)

**Colonial Pacific Leasing Corporation, Successor-in-interest to Citicapital Commercial Corporation**

**Michael H. Theodore**

Cohn and Dussi LLC  
300 Trade Center, Suite 3700  
Woburn, MA 01801  
[mtheodore@cohnanddussi.com](mailto:mtheodore@cohnanddussi.com)

**Constellation NewEnergy, Inc.**

**D. Elaine Conway**

Jackson Walker L.L.P.  
1401 McKinney, Suite 1900  
Houston, TX 77010

**Deutsche Bank National Trust Company, as Trustee**

**Reneau J. Longoria**

Doonan, Graves & Longoria, LLC  
100 Cummings Center  
Suite 225D  
Beverly, MA 01915  
[sl@dgandl.com](mailto:sl@dgandl.com)

**Eastern Bank**

**Robert P. Feingold**

Bradley, Moore, Primason, Cuffe & Weber  
The Edison  
85 Exchange Street  
Lynn, MA 01901  
[rfeingold@bradleymoorelaw.com](mailto:rfeingold@bradleymoorelaw.com)

**MCMUSA, LLC**

**Kevin Riordan**

Boyle, Morrissey & Campo, P.C.  
695 Atlantic Ave  
Boston, MA 02111  
[kriordan@bmcattorneys.com](mailto:kriordan@bmcattorneys.com)

**Petrowsky Auctioneers, Inc.**

275 Route 32  
North Franklin, CT 06254  
(Appraiser)

**Recovery Management Systems Corporation**

25 S.E. 2nd Avenue, Suite 1120  
Miami, FL 33131  
[claims@recoverycorp.com](mailto:claims@recoverycorp.com)  
(Creditor)



**Rodman Financial Corp.**  
**Jonathan R. Goldsmith, Esquire**  
Law Offices of Jonathan R. Goldsmith  
1350 Main Street  
10th Floor  
Springfield, MA 01103  
[bankrdocs@jgoldsmithlaw.com](mailto:bankrdocs@jgoldsmithlaw.com)

**Saxon Mortgage Services, Inc.**  
1270 Northland Drive  
Suite 200  
Mendota Heights, MN 55120  
(*Creditor*)

Twenty largest Unsecured Creditors  
See attached